

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jeffrey Denton,
Andre Tucker,

Plaintiffs,

v.

Columbia Motors Inc., et al.

Defendants

State of Ohio }
 }
 SS
Hamilton County }

Lead Docket: 1:02-cv-00422-SSB-TSH
Related Cases: 1:02-mc-00020-SSB-
THS

1:02-mc-00020-SSB-TSH

Sandra S. Beckwith, Judge
Timothy S. Hogan, Magistrate

Affidavit of Jeffrey Denton

Jeffrey Denton, being duly sworn, deposes and says:

1. I am a plaintiff in this action, and make this affidavit in opposition to the motion for summary judgment filed on behalf of defendants.
2. The following facts are relevant to the issues involved in the above-entitled action:
 - a. I was employed by Columbia Motors Inc. as a service technician and worked at that job until I filed my EEOC complaint in February 2000.
 - b. As a service technician I was paid a flat rate for each assigned job.
 - c. I was fast and as a result, I was able to complete, on the average, the equivalent of eight (8) to eleven (11) chargeable hours per day.
 - d. My hourly rate was ten (10) dollars per hour.
 - e. I filed an EEOC complaint.
 - f. Shortly after Columbia Motors Inc. received notice of the EEOC complaint, my duties were changed to that of a lube technician.
 - g. As a lube technician each job only paid .3 of an hour. At the time my

hourly rate was \$10.00 per hour.

h. Once I was assigned duties as a lube technician, I was only given, on the average, three (3) jobs a day which amounted less than one hours pay although I was present for eight (8).

i. The transfer from service technician to lube technician reduced my income on the average of \$150.00 to \$200.00 per week.

j. It is my opinion that my duties were changed in to retaliation to my EEOC complaint.

k. When I was hired; I was not informed that pranks were common in the service area.

l. I was on the toilet when Mr. Mark Frye, a Caucasian, turned the lights in the restroom off, he then sprayed brake cleaner on the floor and on my work boots, and ignited the break cleaner. This caused my shoes to burn. I got off of the toilet and ran out of the restroom attempting the put out the flames on my shoes.

m. Andre Tucker was in the restroom washing his hand when this incident happened.

n. Both Mr. Tucker and I reported this incident to Mr. Brodigan. Mr. Brodigan's response was to laugh and say that they do that to "Rocky" all the time. "Rocky" is the nick name for Richard Fredericks, the janitor.

o. No disciplinary action was taken as a result of this incident.

p. Both Mr. Tucker and I began to worry about our safety at work.

q. I was surprised when my employer classified the placing of poisonous break fluid, which is clear and odorless, on my food and in my coffee a "prank". Had it

not been for the fact that the brake fluid caused the Styrofoam cup to disintegrate, I would have consumed the coffee that contained the poisonous brake fluid.

r. I do not consider the act of putting poisonous break fluid to be a "prank" because it has the potential of causing serious injury and death. I have always considered a "prank" to be a mischievous trick or practical joke, but not something that can cause serious injury or death as is the case of ingested break fluid.

s. Frequently donuts were delivered to the service area. One day I was busy and did not have time to get a donut, so I asked Mr. Tucker to get one for me. Before he was able to get me a donut, he had duties to perform. While Mr. Tucker was performing those duties, I had time to get the donut myself. By that time there was only one donut left so I took the box with the donut to my work station.

t. Fortunately, before I ate the donut, Mr. Tucker who was returning from performing a duty, heard Harry (I do not know Harry's last name) and Scott Dick talking about injecting the last donut with hot sauce. They asked Mr. Tucker who got the last donut. He answered that I did. Later when Mr. Tucker told me not to eat the donut, he also told me that Harry and Mr. Dick began to laugh when they found out that I had the donut that they told Mr. Tucker they had injected it with hot sauce. It was after being told about the hot sauce that Mr. Tucker immediately ran over and told me not to eat the donut because it had been injected with hot sauce.

u. Mr. Tucker and I reported this incident to Mr. Brodigan. Mr. Brodigan's response was to tell me just to throw it away because there were more up front. No other action was taken. The injected donut is what I consider to be a prank, because while it may have caused me discomfort if I had eaten it, it was not poisonous and could not kill

me.

v. The next incident is Mark Lovens who brought a rifle to work. While Mr. Tucker was getting a work order for me from the dispatcher, the dispatcher told Mr. Tucker to move out of the way and then pointed the rifle at me.

w. While this was taking place, Mr. Brodigan arrived and saw what was happening. Mr. Brodigan yelled to take that "dammed" gun out of the service area and never bring it back. There was no Employee Disciplinary Report made concerning this indecent.

x. Mr. Tucker was returning to the car wash which required him to walk past the restroom/brake room when he noticed that Jeff Watts, Tom Carey, Mark Frye, and Scott Dick, all Caucasians, and were laughing. Mr. Tucker asked them what was so funny just as he noticed a hose that was attached to the exhaust pipe of a running vehicle was positioned next to a fan used to move air into the break room. I was in the brake room, with permission from the manager, trying to recuperate from an ulcer related attack.

y. When I opened my eyes, I noticed that the break room was filled with exhaust smoke. I immediately attempted to leave, but when I eventually found the door which was obscured by the exhaust smoke, I was unable to open it because something was blocking the door from opening.

z. Mr. Tucker who apparently saw my dilemma, kicked opened the door to the break room. Even after the door was open, I was unable to see Mr. Tucker because of the density of the exhaust smoke. Exhaust smoke is actually carbon monoxide, a colorless, odorless, highly poisonous gas, formed by the incomplete combustion of carbon or a

carbonaceous material, such as gasoline. I know from past experience that it can kill. I do not consider this to have been a "prank".

aa. Subsequently Messrs. Watts and Frye admitted to Mr. Brodigan that not only had they attached the hose, but also that the engine of the vehicle to which the hose was connected had upper cylinder head cleaner which produces an foul odor and a bunch of fumes alone with carbon monoxide. I know this combination of chemicals to be even more poisonous than regular exhaust fumes.

bb. Jim Peters, the service manager was not available and was not informed of the incident for at least four days.

cc. As a result of being exposed to the fumes in the restroom/break room, I became ill and went to Bethesda North Hospital where I was administered oxygen and informed that I had induced carbon monoxide poisoning and was sent home for the rest of the day.

dd. The only thing that management did was to make an Employee Disciplinary Report on Messrs. Watts and Frye. No other action was taken by defendant concerning this incident at that time.

ee. I was worried and employed a lawyer who after hearing the fact instructed me file the EEOC charges.

ff. Shortly after I filed charges with the EEOC, I started to receive at least four (4) Employee Disciplinary Reports a week, however, the usual way to get written up would be by the service manager, but my Employee Disciplinary Reports were coming from the general manager. In fact, on four (4) occasions, Columbia Motors Inc.'s lawyer, Jay Langenbahn, was present and explained the alleged reason for the write up.

gg. Before I filed the EEOC complaint, the company lawyer had never been present when any employee received an Employee Disciplinary Report.

hh. One day, in addition to clocking himself out, Mr. Frye clocked me out and told me he was going to "kick my black ass."

ii. When I reported this incident to Mr. Brodigan, Mr. Brodigan did not complete an Employee Disciplinary Report, but only told Mr. Frey that if it was brought to his attention again about him clocking out another employee's time card, he would be fired.

jj. Subsequently, someone hung a six (6) foot doll by the neck in the service area directly adjacent to my tool box. The doll was wearing a Columbia work uniform; the head of the doll was shrouded with a white cloth on its head. Eyeholes had been cut in the shroud. Richard "Rocky" Fredericks took a photograph of the doll which he gave to the EEOC.

kk. The only response to this incident was Mr. Brodigan saying generally that who ever was responsible for hanging the doll should to take it down.

ll. When no one responded, the janitor, Richard "Rocky" Fredericks took the doll down.

mm. After I filed the EEOC complaint charges, and I think it was also after Mr. Tucker had filed his EEOC charges Harry (I do not know his last name, but he was one of the men that injected the donut with hot sauce) told me that me and Mr. Tucker were trying to destroy Columbia Oldsmobile. I never understood why a fellow service area employee knew about the EEOC complaints. Neither Mr. Tucker nor I ever mentioned the EEOC complaints to any coworker.

nn. About thirty (30) minutes later, Harry tried to throw hot coffee on me, but because of a fan, it did not hit me, but was blown back onto Harry.

oo. I reported this incident to Mr. Peters. Rather than to believe me, Mr. Peters asked Harry if what I had just reported was true. Harry answered yes, what I had reported was true and Mr. Peters filed Harry on the spot.

pp. The next incident involved a black Barbie doll. Mr. Frye, Mr. Watts, and Mr. Carrey placed a noose around the neck of the Barbie doll. They placed the brake cleaner on the floor in the shape of a cross. They placed the Barbie doll on the cross and ignited the break cleaner which consumed most of the Barbie doll. This was done in the bay next to where I was working.

qq. I reported the incident to Mr. Brodigan who may have actually seen the incident. Mr. Brodigan's response was that he did not see a Barbie doll, but only saw the burnt floor. I responded that Messrs. Frey, Watts, and Carrey had kicked the doll away when they saw Mr. Brodigan coming. Mr. Brodigan did not investigate or attempt to locate the black Barbie doll. Nothing further was done concerning this incident.

rr. I considered this incident to be the same as the hate crime of burning a cross in the black person's yard. It caused me to fear for my life.

ss. The next incident involved Mr. Watts bring up a picture on the internet of the home where Mr. Tucker and I lived. Mr. Watts editing and animating the picture to make it look like a crack house. He made it appear that I was under a car and was being covered with oil and that Mr. Tucker was driving in a car past the house captioned, "I guess I will be cruising the hood now." It also showed crack babies crawling across the lawn and people hanging out of the windows of the house smoking crack.

tt. When Mr. Brodigan saw what was on the screen, he told Mr. Watts to take that off the screen. Instead, Mr. Watts printed it out and taped on the door leading to the door to the break room with a note that "this is Jeffrey's home." When ever a member of management came near the door, Mr. Watts or Mr. Frye would take it down and when they left the area, it was put back.

uu. Both Mr. Tucker and I reported to Mr. Brodigan that what he had seen on the computer screen had been printed and posted on a door. Mr. Brodigan looked at the door, said he did not see anything. Nothing was done about this incident. I considered this incident to be similar to the cross burning incident and again feared for my life.

vv. The next incident involved Messrs. Frye and Watts who made a water bomb by filling a plastic container with water into which they introduced an air hose and caused air to enter the water and explode. The water spaying all over me, my tools, and papers. The explosion was so loud that Mr. Brodigan came out of his office and asked what was the noise? I answered that the loud noise was a water bomb and that in addition to getting me and my tools soaked, the water destroyed my invoice papers.

ww. Mr. Brodigan's response to tell everyone to "quit the play and get back to work". I considered this to be a "prank" and nothing more.

xx. Subsequently, Messrs. Frye and Watts lit a pack of fire crackers next to my tool box about a step and one-half away from me while I was changing oil in a vehicle. They used a long wick to allow them to get out of the area before the explosion, but were seen laughing after the explosion. This could have caused the oil with which was I working to ignite and burn me. Fortunately, it did not ignite the oil.

yy. I reported this incident, but nothing was done as the result of my report.

zz. Later, while I was doing an oil change, I informed Jerry Fields, the parts manager, of the amount of oil I needed for the vehicle and then set the gauge to dispense the correct amount of oil. When I introduced the oil hose to dispense the oil into the vehicle, it dispensed approximately three (3) quarts more than I had entered on the machine. The excess oil covered the engine of the vehicle and the floor and required a long time to clean.

aaa. After this incident, Mr. Fields told Mr. Brodigan that he saw Mr. Frye fooling with the controls after I had set the amount of oil to be dispensed. In response, Mr. Brodigan told Mr. Frye not to touch the oil gauge after it was set. An Employee Disciplinary Report was not made involving this incident nor was anything done to Mr. Frye. I cleaned the vehicle and Rocky cleaned the floor.

bbb. The next incidents involved pictures. The first picture drawn on a restroom stall depicted a boat and a black person with the words "You people go back to Africa." Another picture was of a man bent over with a penis inserted in his rectum with the words "Take them with you."

ccc. About two (2) weeks after I reported the pictures to Mr. Peters and Mr. Brodigan, the entire restroom was painted.

ddd. The pictures in the restroom stall, the burning of a cross which consumed a black Barbie doll, subjecting me to carbon monoxide made more poisonous by the injector cleaner while I was locked in the restroom/break room, the placement of pictures with the remarks about going back to Africa, and the posting of the computer print out of the modified picture of my house, made me realize that I was working in a hostile work environment and made me realize Columbia Motors Inc. was a hostile work environment

and put me in fear of my life.

eee. During the entire time that the foregoing events were happening, the Caucasian employees were saying that I was a "lazy nigger" and I was told "you people have to go back to Africa". In addition, notes telling me "to go back to Africa" were frequently placed in my tool box. When I told management what was being said, I was told that nothing could be done because I did not have enough proof. After that I stopped reporting these incidents.

fff. After the EEOC complaint were filed, management was doing everything to establish a reason to terminate me and Mr. Tucker. For example, Exhibit ten (10), page two (2) is a work order dated June 2, 1999, involving a 1997 Olds Silhouette, for which a Employee Disciplinary Report, Exhibit 8 to defendant's moving papers, was completed on February 21, 2000, more than six (6) months after I did the work.

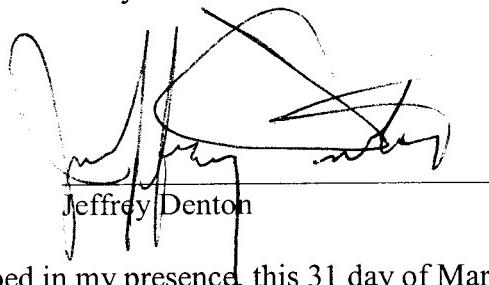
ggg. I was terminated the Monday after Thanksgiving 2000 because they said that I had missed a grease fitting on a lube job.

hhh. I believe I was terminated, not because of the stated reason, but because I am Negroid which resulted in the Caucasian employees causing work disruptions with the thing they were doing to me and Mr. Tucker. In place of investigating the causes of the work disruptions, it was just easier for management to fire me because I was frequently a witness to what was being done to Mr. Tucker and always reported what I saw and heard.

iii. I took the bus to work. Management knew the bus schedule which would get me to work about sixteen (16) minutes late. Before I filed the EEOC complaint I was never subject to an Employee Disciplinary Report because of being late to work. After I

filed the EEOC complaint, I continued to take the same bus to work, and continued to be about sixteen (16) minutes late, but after I filed the EEOC complaint management began to label me as "tardy" and began issuing Employee Disciplinary Report reports.

3. I know of my own personal knowledge that the facts set out in this affidavit are true. I am competent to testify to facts set out in this affidavit. The copies of documents attached to this affidavit are true, accurate, and genuine. If I appeared as a witness in any aspect of this matter, I would testify consistent with the facts as set out in this affidavit.



A handwritten signature in black ink, appearing to read "Jeffrey Denton". The signature is somewhat stylized and includes a large, sweeping flourish above the name.

Sworn to before me and subscribed in my presence, this 31 day of March, 2005.

Jim Rimedio, Lawyer
Notary Public - State of Ohio
My Commission has no expiration
date, Section 147.03 R.C.